

1. Discussion Objective:

Work Session Date: March 5, 2012

To discuss the amended ordinance to Chapter 10 of the LDC, for possible future adoption.

2. Submitter of Information:


☐ Council
☒ Town Staff - Community Development
☒ Town Attorney

3. Estimated Time for this item:

60 Minutes

5. Background:

At the January 17, 2012 Town Council meeting, an islander addressed the council requesting action on Town codes to be amended to approve pedi-cabs. Consensus of Council placed this item on the agenda management list and scheduled it for work session discussion. The Town Attorney has drafted the amended ordinance, attached for this discussion.

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
						

DRAFT PEDICAB REGULATIONS

Sec. 10-48. - Definitions.

For purposes of this article, the following terms, phrases, words and derivations shall have the meaning given herein:

Applicant means an individual, firm, corporation, partnership, company, association, joint venture, or any other type of organization enterprise applying for a certificate to operate.

Certificate means a town certificate to operate that grants written authority under this article to an applicant to operate a motor vehicle for hire company within the town. A separate certificate shall be required for each business entity operating as a public vehicle for hire company.

Charter service means any chauffeur-driven vehicle that is engaged in prearranged transportation and the rates for such transportation are based upon a predetermined hourly, daily, weekly, monthly, or door-to-door price. Charter service vehicles shall include, but not be limited to, the following four classifications:

- (1) *Sedan* means a four-door, full-sized automobile capable of seating not more than five passengers, exclusive of the driver.
- (2) *Limousine* means a luxurious, large passenger vehicle, built or modified for use as a luxury limousine (e.g., formal or extended limousine) capable of seating not more than 14 passengers, exclusive of the driver.
- (3) *Van* means a passenger vehicle recognized as either a minivan or a full size passenger van capable of seating not more than 14 passengers, exclusive of the driver.
- (4) *Vehicle for disabled person* means a vehicle designed, constructed, reconstructed, or operated for the transportation of persons:
 - a. With nonemergency conditions where no medical assistance is needed or anticipated in route;
 - b. Who are unable to comfortably use a standard means of conveyance;
 - c. Who cannot enter, occupy or exit a vehicle without extensive assistance; or
 - d. Where specialized equipment is used for wheelchair or stretcher service and the chauffeur serves as both a chauffeur and attendant to assist in door-to-door or bed-to-bed service.

No emergency equipment other than a fire extinguisher and first aid kit may be carried. The use of the term "ambulance" may not be used and no representations may be made that any medical service is available. The term "nonemergency" must be prominently displayed on the outside of the vehicle.

Compensation means any money, thing of value, payment, consideration, reward, tip, donation, gratuity, or profit paid to, accepted, or received by the driver or owner of any vehicle providing transportation for a person or persons; whether paid upon solicitation, demand or contract, or voluntarily, or intended as a gratuity or donation.

Driver means any person possessing a valid driver's license (that authorizes all respective driving privileges) and who is then employed or permitted by a certificate holder to drive or operate a permitted vehicle for hire upon the streets of the town.

Manager means any person responsible for the day-to-day operation of the certificate holder.

Motor vehicle for hire means any motorized, self-propelled vehicle engaged in the transportation of persons upon the streets of the town with the intent to receive compensation for providing such transportation and shall include, but not be limited to, the classifications: taxicab, and charter service vehicles.

Pedicab means a chauffeured, non-motorized vehicle that is propelled by pedals and operated for compensation.

Non-motorized vehicle for hire means any non-motorized vehicle engaged in the transportation of persons upon the streets of the town with the intent to receive compensation for providing such transportation and shall include, but not be limited to, pedicabs and other non-motorized vehicles, by whatever name known, that are engaged in the transportation of persons upon the streets of the town for compensation.

Owner means any individual, firm, corporation, partnership, company, association, joint venture, or any other type of organization enterprise owning a ten percent or greater interest in an applicant for a certificate to operate and/or a vehicle for hire company.

Pickup means whenever a passenger/customer sits in a vehicle for hire for the purpose of being transported for a fee except successive picking up of the same passenger during a continuous trip when the passenger departs the vehicle for a short time and the vehicle and driver wait at that location and the passenger returns and continues the trip.

Sticker means a color coded sticker issued annually to the current certificate holder authorizing the holder to operate for hire the motor vehicle to which the sticker is affixed.

Taxicab means a motor vehicle designed to accommodate not more than eight passengers, exclusive of the driver, operated for compensation at rates based upon the distance traveled and authorized by this article, and the route or destination of which is controlled by the passengers therein.

Vehicle for hire company means any individual or entity owning or leasing one or more ~~motor~~ vehicles for hire, under one or more categories of ~~motor~~ vehicles for hire, and either provides leased vehicles to drivers to be used or operated as ~~motor~~ vehicles for hire or which operates a central dispatch for one or more ~~motor~~ vehicles for hire.

Sec. 10-49. - Regulatory penalties.

(a) Violation of the provisions of this article, or failure to comply with any of the requirements, of this article shall constitute an offense against the town, and shall subject the offender to arrest under F.S. 901.15(1).

(b) The town manager shall have the authority to exempt persons from the terms of this article, for a period of up to 48 consecutive hours during special programs. No person shall receive more than one such exemption for any 48-hour period.

Sec. 10-50. - Purpose.

The town does hereby declare that public health, safety and welfare requires regulation of taxicab companies and liveries, as well as other passenger vehicles for hire, to ensure protection to our citizens and visitors, and to promote safety on the roads and prevent fraudulent transactions.

Sec. 10-51. - Uncertified vehicle for hire prohibited.

(a) No person shall offer their services as a vehicle for hire within the town, except from a business that fully complies with the regulations set forth in this article.

(b) No person shall conduct any vehicle for hire business within the town, except from a business holding a valid certificate that fully conforms with the terms of this article and operating a vehicle listed under that certificate with a sticker.

(c) Exemptions.

(1) Any owner or transportation provider which has been designated as a community transportation operator as defined in F.S. § 427.011 is exempt from this article; provided, however, that any such vehicle that is also used as a motor vehicle for hire other than exempted uses, as specified herein, shall require a certificate for such nonexempt uses;

(2) Vehicles operated by a governmental agency;

(3) Companies or organizations owning vehicles exclusively used for the transportation of employees or members of said company or organization;

(4) Vehicles seating more than 14 passengers;

(5) Transportation activities licensed by the Interstate Commerce Commission so long as such vehicles are engaged solely in interstate commerce;

(6) Discharge of passengers within the town picked up in another location, provided that the vehicle and operator were authorized to pick up the respective passengers in the originating location of pickup; and

(7) Any company with an equivalent taxicab certificate that is valid in the county, the City of Fort Myers, the City of Cape Coral or the port authority (demand line only);

(8) Sightseeing cars or buses.

Sec. 10-52. - Application for certificate.

(a) An application for obtaining a certificate pursuant to this article shall be made to the town on a form provided by the town manager.

(b) Information to be provided by the applicant shall include, at a minimum:

(1) Business location.

a. The street address from which the business will be operated;

b. If the applicant is not the owner of the property from which the business will be operated, the applicant shall submit a notarized letter of authorization from the owner of the property to the applicant.

(2) Ownership information.

a. Business owner's name, home address, local address, telephone number;

b. Manager's name, home address, local address, telephone number;

c. Mailing address at which notice of any town information pertinent to any business shall be considered received and binding upon the applicant or certificate holder, on the fifth day after first class mail is posted to said address;

d. State sales tax number.

(3) Proof of insurance. Proof of insurance required by section 10-57

(4) Payment of an annual certificate fee for administrative processing costs as currently established or as hereafter adopted by resolution of the town council from time to time, and payment for the county business receipts tax.

(c) Driver standards.

(1) Each driver of a motor vehicle for hire must hold a current and valid commercial driver's license in said driver's name issued by the state, showing a

current street address. The respective driver's license must authorize all types of driving being conducted by the respective driver.

(2) Every certificate holder shall be responsible for ensuring that each of his drivers verifies at least every 12 months by sworn affidavit delivered to the certificate holder that such driver has not been found guilty or convicted, regardless of adjudication, of any of the following crimes within the then past three years:

- a. Murder, manslaughter, armed robbery, burglary, assault with a deadly weapon, aggravated assault;
- b. Any crime involving the sale or possession of any controlled substance as defined by F.S. § 893.03;
- c. The Florida RICO Act, currently F.S. §§ 895.01 through 895.06;
- d. Driving while intoxicated or under the influence of drugs or any other alcohol or drug related offense;
- e. Vehicular manslaughter;
- f. Reckless driving;
- g. Exposure of the sexual organs or any crime defined under F.S. ch. 796, pertaining to prostitution.

(3) If at any time it is determined that the driver has been convicted within the past three years of any of the aforesaid crimes, the certificate holder shall not permit the driver to operate any vehicle for hire. The certificate holder shall maintain a permanent registry containing information on the identity of each driver permitted to operate a permitted vehicle under his authority. Said permanent registry shall be available for inspection and/or copying by the town manager during the certificate holder's regular business hours.

(d) Applicants who misrepresent information provided under this section shall not be issued a certificate, or if issued, may suffer suspension or a revocation of the certificate.

Sec. 10-53. - Annual certification.

Certificates shall be issued on an annual basis coinciding with the town's fiscal year, October 1 through September 30.

Sec. 10-54. - Renewal of certificate/revocation of certificate.

(a) Upon application, the town manager may renew the certificate of any applicant who:

- (1) Held a valid certificate;

(2) Has provided the town with new or updated information, documents, and fees listed in section 10-52; and

(3) Pays a late processing fee as currently established or as hereafter adopted by resolution of the town council from time to time, in addition to the fees in section 10-52, for any renewal application filed after October 1.

(b) The town manager may revoke or deny a certificate for cause, if an applicant has given the town false or misleading information in their application.

(1) The town manager will notify the applicant in writing of the revocation or denial and state the reason for this action.

(2) Any revocation shall continue for one year and the applicant may not be issued a certificate for one year from the date revocation becomes effective.

(3) If subsequent to revocation, the town manager finds that the basis for revocation becomes corrected, the applicant shall be granted a certificate.

(4) The town manager shall inform the applicant in the revocation or denial letter of the applicant's right to appeal such decision to the town council within 20 days of the written letter of the town manager.

(5) The town council shall hear any appeal for denial or revocation within 60 days of the letter from the applicant requesting an appeal.

Sec. 10-55. - Display of sticker.

Any business offering vehicles for hire shall display its vehicle sticker in plain site on each of its vehicles. The sticker is affixed to the left side inside bottom corner of the windshield glass or, for pedicabs in a clearly visible area of the vehicle. A certificate of vehicle permit shall accompany each sticker issued for a motor vehicle and shall identify the permitted vehicle and the sticker displayed on the windshield. A legible copy of the certificate of vehicle permit shall be placed and remain in its assigned/permitted vehicle at all times until expiration of the sticker. The town manager will provide the amount of stickers as necessary by the application.

Sec. 10-56. - Transferability of certificate.

No certificate may be sold, assigned, mortgaged or otherwise transferred.

Sec. 10-57. - Minimum insurance requirements.

(a) No person shall operate a business covered under this article unless covered by a comprehensive general liability insurance policy insuring the public against bodily injury or property damage resulting from or incidental to the operation or use of a vehicle for hire, with limits as currently established or as hereafter adopted by resolution of the town council from time to time. Said insurance shall inure to the benefit of any person who shall be injured or killed, or who shall sustain damage to property caused by the

negligence of the certificate holder, all drivers, masters, servants and agents. Nothing in this section shall be construed to waive applicable state or federal laws, if any, which require a higher minimum amount of insurance.

(b) Evidence of said coverage is subject to acceptance and approval by town manager prior to issuance of the certificate.

(c) Coverage shall remain in full force during the entire time that the certificate is valid and outstanding. Failure to provide such proof shall render the certificate null and void, and of no further force and effect.

Sec. 10-58 – Additional Regulations Applicable to Pedicabs.

In addition to the foregoing requirements, the following regulations are applicable to pedicabs that operate within the town.

(a) The application for an operating certificate must describe the fare structure or structures, which must be posted in the pedicab in a manner approved by the town. Fare rates may either be fixed, negotiated with the passenger prior to service being rendered, or for tips only.

(b) A pedicab service may operate:

(1) up to 24 hours a day, seven days per week;

(2) in bike lanes;

(3) On Estero Boulevard and Old San Carlos Boulevard; and

(4) other areas approved for operation by the Public Works Director.

(c) All pedicab drivers must:

(1) Comply with all traffic laws and regulations applicable bicycles;

(2) Limit operation to the area of the roadway nearest the curb or edge of the roadway, except when necessary to negotiate a turn onto another roadway or to enter a private driveway; and

(3) Tow no more than one trailer, which may not be attached to a combination bicycle/passenger unit.

(d) A pedicab driver may not:

(1) Operate a pedicab in any manner on sidewalks or sidewalk areas, including stopping, loading or unloading passengers.

(2) Stop, stand or park a pedicab:

- (a) on the roadway side of a vehicle stopped or parked at the edge or curb of a street;
 - (b) on a sidewalk;
 - (c) in an intersection;
 - (d) on a crosswalk;
 - (e) alongside or opposite a street excavation or obstruction if stopping, standing, or parking the vehicle would obstruct traffic; or
 - (f) where an official sign prohibits stopping;
- (3) except momentarily to pick up or discharge a passenger, stand or park an occupied or unoccupied pedicab:
 - (a) in front of a public or private driveway;
 - (b) within 15 feet of a fire hydrant;
 - (c) within 20 feet of a crosswalk at an intersection;
 - (d) within 30 feet of the approach to a flashing signal, stop sign, yield sign, or traffic control signal located at the side of a roadway;
 - (e) within 20 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within 75 feet of the entrance, if the entrance is properly marked with a sign; or
 - (f) where an official sign prohibits standing; and
- (4) except temporarily to load or unload merchandise or passengers, park an occupied or unoccupied pedicab where an official sign prohibits parking.
- (e) A pedicab is limited to a maximum passenger capacity of 3, excluding the pedicab driver, unless equipped with individual bicycle-style seats with pedaling stations.
- (f) All pedicabs must meet the following dimensional requirements:
 - (1) a frame may not exceed 55 inches in width;
 - (2) a bicycle tire must be at least 1.5 inches in width;
 - (3) a trailer tire must be at least 1.5 inches in width; and
 - (4) all wheels must have a minimum of 32 spokes and be securely mounted to the vehicle.

(g) a pedicab must be maintained according to the following standards:

- (1) all spokes must be tight and none may be missing or broken;
- (2) floorboards must have non-skid contact surfaces without holes;
- (3) brakes must be capable of making a graced wheel stop within a distance determined by the town;
- (4) bicycle brake pads must be replaced if worn down to less than 1/8th inch;
- (5) each pedicab trailer and single unit pedicab must be equipped with a disc brake system, or other reliable braking system, as approved by the town;
- (6) if a trailer is used, it must be attached to the bicycle in a manner approved by the town;
- (7) a pedicab must be equipped with a front white lamp visible from a distance of 500 feet;
- (8) a pedicab must be equipped with two reflective red lights mounted on the rear in a manner approved by the town, and visible from a distance of 500 feet;
- (9) the passenger seat must be bench style and at least 17 inches deep unless the pedicab is equipped with individual bicycle style seats. No passenger seat may face to the rear.
- (10) the pedicab paint may not be noticeably rusted, flaked, scraped, or faded. Paint repairs must be neat and inconspicuous; and
- (11) any sharp edges or open tubes must be capped in a manner approved by the town.

(h) A trailer/pedicab unit must display the following:

- (1) a company name, telephone number, and individual unit number, with clear and legible lettering displayed in characters at least 2-1/2 inches in height and at least 5/16 of an inch in stroke width, with colors contrasting the color of the pedicab;
- (2) a permit decal and sign listing passenger maximum capacity; and
- (3) a slow moving vehicle emblem that complies with state statutory requirements including size and location.

(i) The town may immediately require a vehicle to be removed from service for any violation of a safety-related requirement of this section. The town may require a permit holder to make any non-safety related repairs within 10 days. A vehicle that has been removed from service must be inspected by the town following completion of repairs.

(j) A pedicab passenger must sit on a seat in the pedicab and not in any other place on or in the pedicab, including the lap of another passenger. If a passenger refuses to comply with this requirement, a driver must stop the pedicab and ask the passenger to exit the pedicab.

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